

INTERNATIONAL CONFERENCE ON ILLICIT TOBACCO TRADE  
(ICITT)

UNITED NATIONS HEADQUARTERS

July 30 to August 1, 2002.

WHITE PAPER

CONFERENCE GOALS

- Advance the goals of the Framework Convention on Tobacco Control (FCTC) on the prevention of illicit tobacco trade.
- Enable officials with tax and revenue, law enforcement, and customs experience to identify and recommend viable measures or "best practices" to combat illicit tobacco trade at the national, regional, and global level.
- Create and enhance partnerships and coalitions to facilitate information sharing and international cooperation for revenue collection and law enforcement purposes.
- Consider measures to provide for an international regulatory standard to reduce the ability of illicit traders to use "safe havens" as part of their smuggling and diversion schemes.
- Develop a Conference report to be presented to the fifth International Negotiating Body (INB) of the Framework Convention on Tobacco Control (FCTC) in October 2002. The report will reflect the views expressed at the conference, measures or "best practices" considered to be effective in combating illicit tobacco trade, and appropriate definitions for inclusion in the main body of the FCTC or in a protocol to the FCTC.

The following is to assist discussion of possible examples of "best practices" that may be effective in addressing issues to be raised at the ICITT.

## I. LICENSING - RECORD KEEPING

In past discussions, licensing has proved to be controversial particularly at the local levels. In some countries the number of retailers makes it impractical to enforce; in others national and sub-national jurisdictional issues are involved. The following is an example that contains the elements for what could be an example of effective licensing system:

1. Key elements of a licensing and record keeping regime may include the following:

- (a) All persons engaged in the business of manufacturing, importing, exporting, wholesaling, and transporting tobacco products shall be licensed at the national or sub national level as appropriate (based on specified criteria);
- (b) All licensed manufacturers shall maintain records of production and sale for each day and all other licensees as well as all retailers shall maintain records of receipt (disclosing date of receipt, from whom such products were received, and the quantity of the tobacco products received) and such records shall be available for inspection by appropriate governmental entities;
- (c) A person shall be entitled to a license unless a competent authority finds that such person has been previously convicted of a crime relating to tobacco, including the taxation thereof or convicted of any serious criminal offense not related to tobacco;
- (d) All licensing applicants shall file applicable bonds and provide proof that by reason of their business experience, financial standing, and trade connections that they are likely to maintain operations of the business for which they are licensed in accordance with applicable laws and that they have established adequate safeguards to ensure the collection of tax revenues; and

- (e) Appropriate governmental authorities shall issue proposed license revocation notices to licensees who have failed to materially comply with the terms and conditions of their licenses and to provide them with the opportunity to contest the government's proposed action.

2. See, also, I. 13/14 in FCTC document no. A/FCTC/INB4/2(a) Amend. 1 (March 22, 2002).

## II. LABELING - TRACKING AND TRACING - BORDER CONTROLS - CONTRABAND AND COUNTERFEIT

Discussions in this area have included the use of a stamp or numbering system to enable tracking of the product through sophisticated technology. The stamp or numbering could hold information identifying all the elements of the distribution system from manufacturer to retailer. Such proposals have raised concerns about the costs that would be incurred and the need for uniformity to make such a highly sophisticated tool effective. The use of tracking and tracing mechanisms will enhance border controls.

1. Key elements of a tracking and tracing mechanism (including labeling) could include:

- (a) Measures to ensure that all unit packets and packages of tobacco products and raw tobacco materials and any outside packaging of such products and materials for retail or wholesale use that are sold and/ or manufactured under its jurisdiction [carry a marking in any appropriate manner in order to enable the origin of the product to be identified] [, to ensure the identity and tracking of the product and to enable the place and time of manufacture to be determined such as through the use of serial numbers, stamps, commercial documentation, or competent party approved forms].

- (b) Measures to ensure that each package of tobacco product that is exported shall be marked for export to make the exported product readily identifiable if it should be improperly introduced into (domestic commerce/commerce).

(c) Measures that make it unlawful for any person to alter, mutilate, destroy, obliterate, or remove any mark or label required under this article, except where a competent authority authorizes re-labeling for purposes of compliance with this article or any law.

2. See, also, I. 3 and 4 in FCTC document no. A/FCTC/INB4/2(a) Amend. 1 (March 22, 2002) and annex 2 in FCTC document no. A/FCTC/INV4/INF.DOC./1.

### III. INFORMATION SHARING - MUTUAL ASSISTANCE - INTERNATIONAL COOPERATION.

Key elements of information sharing could include:

(1) Exchange or share information contained in reports received from exporters of cigarettes and other tobacco products if the Party holding the information believes that such information will assist in:

- a. Insuring compliance with the provisions of this (agreement, treaty, protocol, as appropriate); or
- b. Preventing or detecting violations of this (agreement, treaty, protocol, as appropriate).

(2) Provide that such information may be exchanged or shared with another Party only if the Party holding the information obtains assurances from such Party that the information will be held in confidence and used only for the purpose noted in paragraphs a. and b. and provided further that no information may be exchanged or shared with any Party that has violated that assurance.